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Department of Defense
DIRECTIVE

AD-A270 645



June 15, 1990
NUMBER 1344.10

ASD(FM&P)

SUBJECT: Political Activities by Members of the Armed Forces on Active Duty

- References:
- (a) DoD Directive 1344.10, "Political Activities by Members of the Armed Forces," September 25, 1986 (hereby canceled)
 - (b) Title 10, United States Code
 - (c) DoD Directive 5200.2, "DoD Personnel Security Program," December 20, 1979
 - (d) DoD Directive 1325.6, "Guidelines for Handling Dissident and Protest Activities Among Members of the Armed Forces," September 12, 1969
 - (e) through (h), see enclosure 1

A. REISSUANCE AND PURPOSE

This Directive:

- 1. Reissues reference (a) to update DoD policies on political activities of members of the Armed Forces on active duty (AD).
- 2. Implements Section 973(b) of reference (b).

B. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense (OSD); the Military Departments; the Chairman, Joint Chiefs of Staff and Joint Staff; the Unified and Specified Commands; and the Coast Guard when it is not operating as a Service in the Navy, by agreement with the Department of Transportation.

C. DEFINITIONS

The terms used in this Directive are defined in enclosure 2.

D. POLICY

It is DoD policy that a member of the Armed Forces (hereafter referred to as "member") is encouraged to carry out the obligations of a citizen. While on AD, however, members are prohibited from engaging in certain political activities. Subject to the guidelines in enclosure 3, the following DoD policy shall apply:

1. General

- a. A member on AD may:

(1) Register, vote, and express his or her personal opinion on political candidates and issues, but not as a representative of the Armed Forces.

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(2) Make monetary contributions to a political organization.

(3) Attend partisan and nonpartisan political meetings or rallies as a spectator when not in uniform.

b. A member on AD shall not:

(1) Use his or her official authority or influence for interfering with an election; affecting the course or outcome of an election; soliciting votes for a particular candidate or issue; or requiring or soliciting political contributions from others.

(2) Be a candidate for, or hold, civil office except as authorized in subsections D.2. and D.3., below.

(3) Participate in partisan political management, campaigns, or conventions.

(4) Make campaign contributions to another member of the Armed Forces or an employee of the Federal Government.

c. To assist in applying paragraphs D.1.a. and D.1.b., above, to particular situations, enclosure 3 provides guidelines and examples of permissible and prohibited political activities. The guidelines in enclosure 3 do not supersede other specific requirements and policies, such as those established in DoD Directives 5200.2 and 1325.6 (references (c) and (d)).

d. Enclosure 4 provides a summary of Federal statutes restricting certain types of political activities by members of the Armed Forces.

2. Candidacy for Elective Office. A member on AD may not:

a. Campaign as a nominee, or as a candidate for nomination, for civil office, except as authorized in paragraph D.3.c., below. When circumstances warrant, the Secretary concerned or the Secretary's designee may permit a member to file such evidence of nomination or candidacy for nomination, as may be required by law. Such permission shall not authorize activity while on AD that is otherwise prohibited in paragraph D.1.b., above, or enclosure 3 or 4.

b. Become a candidate for any civil office while serving an initial tour of extended active duty (EAD) or a tour of EAD that the member agreed to perform as a condition of receiving schooling or other training wholly or partly at U.S. Government expense.

3. Election or Appointment to Civil Office

a. Except as authorized by paragraph D.3.c., below, or otherwise provided for by law, no member on AD may hold or exercise the functions of civil office:

(1) In the U.S. Government that:

(a) Is an elective office.

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(b) Requires an appointment by the President by and with the advice and consent of the Senate.

(c) Is a position on the executive schedule under sections 5312 through 5317 of reference (e).

(2) In the government of a State; the District of Columbia; a territory, possession, or commonwealth of the United States; or in any political subdivision thereof.

b. A member may hold or exercise the functions of a civil office in the U.S. Government that is not described in subparagraph D.3.a.(1), above, when assigned or detailed to such office or to perform such functions.

c. As long as they are not serving on EAD, enlisted members and Reserve officers may hold partisan or nonpartisan civil office if such office is held in a private capacity and does not interfere with the performance of military duties. Additionally, enlisted members on EAD may seek and hold nonpartisan civil office as a notary public or member of a school board, neighborhood planning commission, or similar local agency, as long as such office is held in a private capacity and does not interfere with the performance of military duties.

d. Unless prohibited by Service regulations, a member on AD may serve as a regular or reserve civilian law enforcement officer or as a member of a civilian fire or rescue squad. Such service shall be in a private capacity, shall not involve the exercise of military authority, and shall not interfere with the performance of military duties.

e. A member elected or appointed to a prohibited civil office may request retirement and shall be retired if eligible for retirement. If such member does not request or is not eligible for retirement, the member shall be discharged or released from AD, as determined by the Secretary concerned.

f. The separation and retirement requirements of paragraph D.3.e., above, do not apply if the member declines to serve in the prohibited office; if the Secretary concerned determines that the member should not be released from active duty based on the needs of the Service; or if the member is:

(1) Obligated to fulfill an AD Service commitment.

(2) Serving or has been issued orders to serve afloat or in an area that is overseas, remote, a combat zone, or a hostile fire pay area.

(3) Ordered to remain on AD while the subject of an investigation or inquiry.

(4) Accused of an offense under the Uniform Code of Military Justice (UCMJ), 10 U.S.C., chapter 47 (reference (b)), or serving a sentence or punishment for such offense.

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(5) Pending administrative separation action or proceedings.

(6) Indebted to the United States.

(7) On AD during a period of declared war, a national emergency, or other period when a unit of the Reserves or National Guard has been called to AD.

(8) In violation of an order or regulation prohibiting such member from assuming or exercising the functions of civil office.

g. A member who refuses to decline to serve in a prohibited civil office after being denied separation or retirement in accordance with paragraph D.3.f., above, may be subject to disciplinary or adverse administrative action under Service regulations.

h. No actions undertaken by a member in carrying out assigned military duties shall be invalidated solely by virtue of such member having assumed or exercised the functions of a civil office in violation of subsection D.3., above.

E. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) shall be responsible for the administration of this Directive.

2. The Secretaries of the Military Departments shall be responsible for issuance of appropriate implementing documents for their respective Departments.

F. PROCEDURES

All members of the Armed Forces on AD engaging in political activities shall follow the guidelines in enclosure 3.

G. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. The Secretaries of the Military Departments shall forward one copy of implementing documents to the Assistant Secretary of Defense (Force Management and Personnel) within 120 days.



Donald J. Atwood
Deputy Secretary of Defense

Enclosures - 4

1. References
2. Definitions
3. Guidelines on Political Activities
4. Statutory Restrictions Pertaining to Political Activities by Members of the Armed Forces

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REFERENCES, continued

- (e) Title 5, United States Code
- (f) DoD Directive 1334.1, "Wearing of the Uniform," August 11, 1969
- (g) Title 2, United States Code, Sections 441a, 441f, and 441g
- (h) Title 18, United States Code, Sections 592 through 594, 596, 602 through 603, 606 through 607, and 609

DEFINITIONS

1. Active Duty (AD). Full-time duty in the active Military Service of the United States without regard to duration or purpose, including full-time training duty; annual training duty; attendance, while in the active Military Service, at a school designated as a Service school by law or by the Secretary of the Military Department concerned; and National Guard duty, as defined in 10 U.S.C. 101(42) (reference (b)).
2. Armed Forces. The U.S. Army, Navy, Air Force, Marine Corps, and Coast Guard, including the Reserve components and the National Guard, as defined in 10 U.S.C. 101(9), 101(10), and 101(12) (reference (b)).
3. Civil Office. A nonmilitary office involving the exercise of the powers or authority of civil government, to include elective and appointive office in the U.S. Government, a U.S. territory or possession, State, county, municipality, or official subdivision thereof.
4. Extended Active Duty (EAD). AD under a call or order for a period in excess of 180 days.
5. Nonpartisan Political Activity. Activity supporting or relating to candidates not representing, or issues not specifically identified with, national or State political parties and associated or ancillary organizations. Issues relating to constitutional amendments, referendums, approval of municipal ordinances, and others of similar character are not considered under this Directive as specifically being identified with national or State political parties.
6. Partisan Political Activity. Activity supporting or relating to candidates representing, or issues specifically identified with, national or State political parties and associated or ancillary organizations.
7. Secretary Concerned. Defined in 10 U.S.C. 101(8) (reference (b)).

GUIDELINES ON POLITICAL ACTIVITIES

A. PURPOSE

This enclosure provides guidance for implementing this Directive.

B. EXAMPLES OF PERMISSIBLE POLITICAL ACTIVITIES

A member on active duty may:

1. Register, vote, and express a personal opinion on political candidates and issues, but not as a representative of the Armed Forces.
2. Promote and encourage other military members to exercise their voting franchise, if such promotion does not constitute an attempt to influence or interfere with the outcome of an election.
3. Join a political club and attend its meetings when not in uniform. (See DoD Directive 1334.1, reference (f).)
4. Serve as an election official, if such service is not as a representative of a partisan political party, does not interfere with military duties, is performed while out of uniform, and has the prior approval of the Secretary concerned or the Secretary's designee.
5. Sign a petition for specific legislative action or a petition to place a candidate's name on an official election ballot, if the signing does not obligate the member to engage in partisan political activity and is done as a private citizen and not as a representative of the Armed Forces.
6. Write a letter to the editor of a newspaper expressing the member's personal views on public issues or political candidates, if such action is not part of an organized letter-writing campaign or concerted solicitation of votes for or against a political party or partisan political cause or candidate.
7. Make monetary contributions to a political organization, party, or committee favoring a particular candidate or slate of candidates, subject to the limitations under 2 U.S.C. 441a and 18 U.S.C. 607 (references (g) and (h)).
8. Display a political sticker on the member's private vehicle.

C. EXAMPLES OF PROHIBITED POLITICAL ACTIVITIES

In accordance with the statutory restrictions in 10 U.S.C. 973(b) (reference (b)) and references (g) and (h), and the policies established in section D., above, of this Directive, a member on AD shall not:

1. Use official authority or influence to interfere with an election, affect the course or outcome of an election, solicit votes for a particular candidate or issue, or require or solicit political contributions from others.
2. Be a candidate for civil office in Federal, State, or local government, except as authorized in section D., above, of this Directive, or engage in public or organized soliciting of others to become partisan candidates for nomination or election to civil office.

3. Participate in partisan political management or campaigns, or make public speeches in the course thereof.
4. Make a campaign contribution to another member of the Armed Forces or to a civilian officer or employee of the United States for promoting a political objective or cause.
5. Solicit or receive a campaign contribution from another member of the Armed Forces or from a civilian officer or employee of the United States for promoting a political objective or cause.
6. Allow or cause to be published partisan political articles signed or written by the member that solicit votes for or against a partisan political party or candidate.
7. Serve in any official capacity or be listed as a sponsor of a partisan political club.
8. Speak before a partisan political gathering of any kind for promoting a partisan political party or candidate.
9. Participate in any radio, television, or other program or group discussion as an advocate of a partisan political party or candidate.
10. Conduct a political opinion survey under the auspices of a partisan political group or distribute partisan political literature.
11. Use contemptuous words against the officeholders described in 10 U.S.C. 888 (reference (b)), or participate in activities proscribed by DoD Directives 5200.2 and 1325.6 (references (c) and (d)).
12. Perform clerical or other duties for a partisan political committee during a campaign or on an election day.
13. Solicit or otherwise engage in fundraising activities in Federal offices or facilities, including military reservations, for a partisan political cause or candidate.
14. March or ride in a partisan political parade.
15. Display a large political sign, banner, or poster (as distinguished from a bumper sticker) on the top or side of a private vehicle.
16. Participate in any organized effort to provide voters with transportation to the polls if the effort is organized by, or associated with, a partisan political party or candidate.
17. Sell tickets for, or otherwise actively promote, political dinners and similar fundraising events.
18. Attend partisan political events as an official representative of the Armed Forces.

D. POLITICAL ACTIVITIES NOT EXPRESSLY PERMITTED OR PROHIBITED

Some activities not expressly prohibited may be contrary to the spirit and intent of section D. of the Directive or section C. of this enclosure. In determining whether an activity violates the traditional concept that Service members should not engage in partisan political activity, rules of reason and common sense shall apply. Any activity that may be viewed as associating the Department of Defense or the Department of Transportation, in the case of the Coast Guard, or any components of such Departments directly or indirectly with a partisan political cause or candidate shall be avoided.

E. LOCAL NONPARTISAN POLITICAL ACTIVITIES

This Directive does not preclude participation in local nonpartisan political campaigns, initiatives, or referendums. A member taking part in local nonpartisan political activity, however, shall not:

1. Wear a uniform or use any Government property or facilities while participating.
2. Allow such participation to interfere with, or prejudice, the member's performance of military duties.
3. Engage in conduct that in any way may imply that the Department concerned or any component of such Department has taken an official position on, or is otherwise involved in, the local political campaign or issue.

F. ADDITIONAL REQUIREMENTS

Members of the Armed Forces on AD engaging in permissible political activities shall:

1. Give full time and attention to the performance of military duties during prescribed duty hours.
2. Avoid any outside activities that may be prejudicial to the performance of military duties or are likely to bring discredit upon the Armed Forces.
3. Refrain from participating in any political activity while in military uniform, as proscribed by DoD Directive 1334.1 (reference (f)), or using Government facilities or resources for furthering political activities.

STATUTORY RESTRICTIONS PERTAINING TO POLITICAL ACTIVITIES BY MEMBERS
OF THE ARMED FORCES

Members of the Armed Forces are prohibited by various provisions of titles 10, 2, and 18, United States Code (references (b), (g), and (h)), from engaging in certain types of political activities. The statutory provisions most directly applicable to members of the Armed Forces are as follows:

"Title 10 U.S.C. § 973. Duties: officers on active duty; performance of civil functions restricted

"(a) No officer of an armed force on active duty may accept employment if that employment requires him to be separated from his organization, branch, or unit, or interferes with the performance of his military duties.

"(b) (1) This subsection applies--

(A) to a regular officer of an armed force on the active-duty list (and a regular officer of the Coast Guard on the active duty promotion list);

(B) to a retired regular officer of an armed force serving on active duty under a call or order to active duty for a period in excess of 180 days; and

(C) to a reserve officer of an armed force serving on active duty under a call or order to active duty for a period in excess of 180 days.

(2) (A) Except as otherwise authorized by law, an officer to whom this subsection applies may not hold, or exercise the functions of, a civil office in the Government of the United States--

(i) that is an elective office;

(ii) that requires an appointment by the President by and with the advice and consent of the Senate; or

(iii) that is a position in the Executive Schedule under sections 5312 through 5317 of title 5.

(B) An officer to whom this subsection applies may hold or exercise the function of a civil office in the Government of the United States that is not described in subparagraph (A) when assigned or detailed to that office or to perform those functions.

(3) Except as otherwise authorized by law, an officer to whom this subsection applies may not hold or exercise, by election or appointment, the functions of a civil office in the government of a State, the District of Columbia, or a territory, possession, or commonwealth of the United States (or of any political subdivision of any such government).

(4) Nothing in this subsection shall be construed to invalidate any action undertaken by an officer in furtherance of assigned official duties.

(5) The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating in the Navy, shall prescribe regulations to implement this section."

"Title 2 U.S.C. § 41a. Limitations on contributions and expenditures

"(a) Dollar limits on contributions

(1) No person shall make contributions--

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate in any calendar year which, in the aggregate, exceed \$20,000; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed \$5,000.

(2) No multicandidate political committee shall make contributions--

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed \$15,000; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed \$5,000.

(3) No individual shall make contributions aggregating more than \$25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made is considered to be made during the calendar year in which such election is held.

. . .

(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The

intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

....."

"Title 2 U.S.C. § 441f. Contributions in the name of another prohibited

"No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such contribution, and no person shall knowingly accept a contribution made by one person in the name of another person."

"Title 2 U.S.C. § 441g. Limitation on contribution of currency

"No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed \$100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office."

"Title 18 U.S.C. § 592. Troops at polls

"Whoever, being an officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such forces be necessary to repel armed enemies of the United States, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; and be disqualified from holding any office of honor, profit, or trust under the United States.

"This section shall not prevent any officer or member of the armed forces of the United States from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote."

"Title 18 U.S.C. § 593. Interference by armed forces

"Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State; or

"Whoever, being such officer or member, prevents or attempts to prevent by force, threat, intimidation, advice or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election; or

"Whoever, being such officer or member, orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote; or

"Whoever, being such officer or member, imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or

"Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties--

"Shall be fined not more than \$5,000 or imprisoned not more than five years, or both; and disqualified from holding any office of honor, profit or trust under the United States.

"This section shall not prevent any officer or member of the Armed Forces from exercising the right of suffrage in any district to which he may belong, if otherwise qualified according to the laws of the State of such district."

"Title 18 U.S.C. § 594. Intimidation of voters

"Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

"Title 18 U.S.C. § 596. Polling armed forces

"Whoever, within or without the Armed Forces of the United States, polls any member of such forces, either within or without the United States, either before or after he executes any ballot under any Federal or State law, with reference to his choice of or his vote for any candidate, or states, publishes, or releases any result of any purported poll taken from or among the members of the Armed Forces of the United States or including within it the statement of choice for such candidate or of such votes cast by any member of the Armed Forces of the United States, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

"The word 'poll' means any request for information, verbal or written, which by its language or form of expression requires or implies the necessity of an answer, where the request is made with the intent of compiling the result of the answers obtained, either for the personal use of the person making the request, or for the purpose of reporting the same to any other person, persons, political party, unincorporated association or corporation, or for the purpose of publishing the same orally, by radio, or in written or printed form."

"Title 18 U.S.C. § 602. Solicitation of political contributions

"It shall be unlawful for--

(1) a candidate for the Congress;

(2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(3) an officer or employee of the United States or any department or agency thereof; or

(4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States to knowingly solicit, any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both."

"Title 18 U.S.C. § 603. Making political contributions

"(a) It shall be unlawful for an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for service from money derived from the Treasury of the United States, to make any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 to any other such officer, employee or person or to any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, if the person receiving such contribution is the employer or employing authority of the person making the contribution. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

"(b) For purposes of this section, a contribution to an authorized committee as defined in section 302(e)(1) of the Federal Election Campaign Act of 1971 shall be considered a contribution to the individual who has authorized such committee."

"Title 18 U.S.C. § 606. Intimidation to secure political contributions

"Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title, discharges or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined not more than \$5,000 or imprisoned not more than three years, or both."

"Title 18 U.S.C. § 607. Place of solicitation

"(a) It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 in any room or building occupied in the discharge of official duties by any person mentioned in section 603, or in any navy yard, fort, or arsenal. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

"(b) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, provided, that such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to any room, building, or other

facility referred to in subsection (a), and provided that such contributions are transferred within seven days of receipt to a political committee within the meaning of section 302(e) of the Federal Election Campaign Act of 1971."

"Title 18 U.S.C. § 609. Use of military authority to influence vote of member of Armed Forces

"Whoever, being a commissioned, noncommissioned, warrant, or petty officer of an Armed Force, uses military authority to influence the vote of a member of the Armed Forces or to require a member of the Armed Forces to march to a polling place, or attempts to do so, shall be fined in accordance with this title or imprisoned not more than five years, or both. Nothing in this section shall prohibit free discussion of political issues or candidates for public office."

SUPPLEMENTARY

INFORMATION

DEPARTMENT OF DEFENSE

DIRECTIVES SYSTEM TRANSMITTAL

NUMBER	DATE	DISTRIBUTION
1344.10, Change 1	January 7, 1994	1000 Series

ATTACHMENTS

None

INSTRUCTIONS FOR RECIPIENTS

The following pen changes to DoD Directive 1344.10, "Political Activities by Members of the Armed Forces on Active Duty," June 15, 1990, are authorized:

PEN CHANGES

Page 3

Paragraph D.3.c., line 8. Add "Officers on active duty may seek and hold nonpartisan civil office on an independent school board that is located exclusively on a military reservation."

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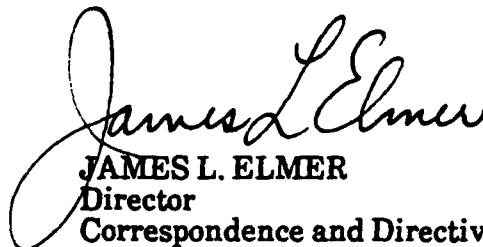
After subsection (b)(4), add ""(c) an officer to whom subsection (b) applies may seek and hold nonpartisan civil office on an independent school board that is located exclusively on a military reservation."

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First line, change "(5)" to ""(d)""

EFFECTIVE DATE

The above changes are effective immediately.


JAMES L. ELMER
Director
Correspondence and Directives

WHEN PRESCRIBED ACTION HAS BEEN TAKEN, THIS TRANSMITTAL SHOULD BE FILED WITH THE BASIC DOCUMENT

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